

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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SAID ELMAJZOUN,

Petitioner,

v.

BRIAN WILLIAMS,

Respondent.

Case No. 2:16-cv-02508-RFB-GWF

ORDER

Petitioner Said Elmajzoub has submitted a *pro se* petition for writ of habeas corpus and has paid the filing fee (ECF Nos. 1, 1-1). The court has reviewed the petition pursuant to Habeas Rule 4, and it shall be docketed and served on respondents.

A petition for federal habeas corpus should include all claims for relief of which petitioner is aware. If petitioner fails to include such a claim in his petition, he may be forever barred from seeking federal habeas relief upon that claim. See 28 U.S.C. §2254(b) (successive petitions). If petitioner is aware of any claim not included in his petition, he should notify the court of that as soon as possible, perhaps by means of a motion to amend his petition to add the claim.

IT IS THEREFORE ORDERED that the Clerk **shall file and ELECTRONICALLY SERVE** the petition (ECF No. 1-1) on the respondents.

IT IS FURTHER ORDERED that the Clerk shall add Adam Paul Laxalt, Nevada Attorney General, as counsel for respondents.

IT IS FURTHER ORDERED that respondents shall file a response to the petition, including potentially by motion to dismiss, within **ninety (90) days** of service of the

1 petition, with any requests for relief by petitioner by motion otherwise being subject to the
2 normal briefing schedule under the local rules. Any response filed shall comply with the
3 remaining provisions below, which are entered pursuant to Habeas Rule 5.

4 **IT IS FURTHER ORDERED** that any procedural defenses raised by respondents
5 in this case shall be raised together in a single consolidated motion to dismiss. In other
6 words, the court does not wish to address any procedural defenses raised herein either
7 *in seriatum* fashion in multiple successive motions to dismiss or embedded in the answer.
8 Procedural defenses omitted from such motion to dismiss will be subject to potential
9 waiver. Respondents shall not file a response in this case that consolidates their
10 procedural defenses, if any, with their response on the merits, except pursuant to 28
11 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly lacking merit. If respondents
12 do seek dismissal of unexhausted claims under § 2254(b)(2): (a) they shall do so within
13 the single motion to dismiss not in the answer; and (b) they shall specifically direct their
14 argument to the standard for dismissal under § 2254(b)(2) set forth in *Cassett v. Stewart*,
15 406 F.3d 614, 623-24 (9th Cir. 2005). In short, no procedural defenses, including
16 exhaustion, shall be included with the merits in an answer. All procedural defenses,
17 including exhaustion, instead must be raised by motion to dismiss.

18 **IT IS FURTHER ORDERED** that, in any answer filed on the merits, respondents
19 shall specifically cite to and address the applicable state court written decision and state
20 court record materials, if any, regarding each claim within the response as to that claim.

21 **IT IS FURTHER ORDERED** that petitioner shall have **forty-five (45) days** from
22 service of the answer, motion to dismiss, or other response to file a reply or opposition,
23 with any other requests for relief by respondents by motion otherwise being subject to the
24 normal briefing schedule under the local rules.

25 **IT IS FURTHER ORDERED** that any additional state court record exhibits filed
26 herein by either petitioner or respondents shall be filed with a separate index of exhibits
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1 identifying the exhibits by number. The CM/ECF attachments that are filed further shall
2 be identified by the number of the exhibit in the attachment.

3 **IT IS FURTHER ORDERED** that the parties SHALL SEND courtesy copies of all
4 exhibits in this case to the Clerk of Court, 400 S. Virginia St., Reno, NV, 89501, directed
5 to the attention of "Staff Attorney" on the outside of the mailing address label. Additionally,
6 in the future, all parties shall provide courtesy copies of any additional exhibits submitted
7 to the court in this case, in the manner described above.

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9 DATED: 26 February 2017.

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12 RICHARD F. BOULWARE, II
13 UNITED STATES DISTRICT JUDGE
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